

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' B ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No.284/Hyd/2017
(Assessment Year : 2009-10)**

Shri Ashwin Joshi,
Hyderabad. PAN AGXPJ 6884FAppellant.

Dy. Commissioner of Income Tax,
Circle 14(1), Hyderabad.Respondent.

Appellant By : Shri A.V. Raghuram.
Respondent By : Shri Sunil Kumar Pandey (D.R)

Date of Hearing : 26.04.2021.
Date of Pronouncement : 31.05.2021.

O R D E R

Per Shri S.S. Godara, J.M. :

This assessee's appeal for Asst. Year 2009-10 arises from the Commissioner of Income Tax (Appeals)-6, Hyderabad's order dt.25.11.2016 passed in case No.0154/2015-16/CIT(A)-6/15-16 in proceedings under

Section 143(3) r.w.s. 254 of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance is that the CIT(Appeals) had erred in law and on facts in directing the Assessing Officer to adopt Fair Market Value (FMV) as on 1.4.1981 at Rs.900 per sq. yard than that claimed at Rs.1600 per sq. yard, we straightaway come to the lower appellate discussion readily as under :

02.0 The point of determination in the appeal is whether the Assessing Officer was correct in determining income from Long Term Capital Gains (LTCG) at Rs.8,40,56,784/-.

02.1 The brief facts of the case resulting in the present appeal are that the assessee had admitted LTCG at Rs.6,17,41,930/- on sale of land admeasuring 2386.03 sq. yards. The full value of consideration was shown at Rs.8,51,31,350/- while cost of acquisition as on 01.04.1981 was shown at Rs.2,33,89,416/-. On being asked to furnish the basis for showing the fair market value as on 01.04.1981 at Rs.2.33 crores, the assessee had submitted the Valuation Report of the approved Registered Valuer who had valued the

property @ Rs.1,600/- per sq. yard that worked to Rs.38,17,648/- and the building was valued at Rs.2,01,152/-. This totalled to Rs.40,18,800/-. After indexation, the cost of acquisition was shown at Rs.2.33 crores.

02.2 The Assessing Officer rejected the valuation report of the registered valuer submitted by the assessee which had stated the value in the vicinity of the assessee's property to be around Rs.1,600/- per sq. yard, as no comparative instance of sales in the neighbourhood of the assessee's property in support of the rate adopted was given. He placed reliance on the decision of the ITAT, Vishakhapatnam in the case of M. Siva Parvathi vs. ITO (2010) 129 TTJ 463 where the rate given by the SRO was upheld, in absence of assessee's non-furnishing of any evidence to show that the property could have fetched more value than the cost certified by the SRO. He adopted the fair market value of the land at Rs.20 per sq. yard and that of RCC structure at Rs.50/- per sq.foot (reported by SRO) and determined Long Term Capital Gains at Rs.8,40,56,784/- as against the Long Term Capital Gains of Rs.6,17,41,930/- shown by the assessee.

02.3 Aggrieved with the addition made by the Assessing Officer, the assessee preferred an appeal before the CIT(A) and agitated adoption of SRO value as deemed cost of acquisition of the property as on 01.04.1981.

02.4 The CIT(A) vide his order dated 29.06.2012, after taking into consideration plethora of judgements relied upon by the Assessing Officer and the assessee on the issue, and placing reliance on the decision on Jurisdictional ITAT in the case of G. Vijay & Others (ITA No.276-279/Hyd/2003 dated 29.04.2005) and Ashven Datla vs. ITO (ITA No.107/Hyd/2010 dated 29.10.2010), held that there was no justification to place reliance on guideline value fixed in the year 1976 and not revised till 1995. Taking into consideration the location of assessee's property, the importance / development of locality in the 1980s, its commercial potential, he held it fair and reasonable to estimate the FMV of the impugned property at Rs.900/- per sq. yard and the fair market value of the built-up area at Rs.100/- per sq.ft. as taken by the Registered valuer. While doing so, he commented on the fact that neither the assessee nor

the Assessing Officer had given any comparable in support of their respective contentions.

02.5 The Department and the assessee both did not accept the decision and went in appeal before the Hon'ble ITAT. Both of them challenged the FMV as on 01.04.1981 as determined by the CIT(A). After considering the arguments of both the parties, the Hon'ble ITAT, referring to the decision of the Bombay High Court in the case of CIT vs. Raman Kumar Singhvi, in ITA No. 6962 of 2010 and to the decision of ITAT, Mumbai & Delhi Bench in the case of DCIT vs. Chaturbhuji Vallabhad as HUF (130 ITD 230) and DCIT vs. Harbit Singh (34 CCH 167) (2012), set-aside the issue of FMV to the file of the Assessing Officer for fresh determination after considering the following:

- i. *The registered valuer report as submitted by the assessee.*
- ii. *Reference to the DVO has to be made by the Assessing Officer and the report of the DVO on the cost of acquisition as on 01.04.1981 of the property has to be considered.*
- iii. *Inherent quality of the property namely size, location, road frontage, corner lot, if any, etc. to be examined.*
- iv. *Any comparable property in the same locality should be taken for consideration.*

The Hon'ble Tribunal also observed that "the AO shall after examining thoroughly the nature of the property and the peculiar circumstances as well as the values given by the different persons namely DVO and the Registered Valuer shall decide the issue de novo."

02.6 Thus, the only issue in the fresh assessment in pursuance of the decision of the Hon'ble ITAT was the quantum of the FMV of the property as on 01.04.1981.

02.7 While making the fresh assessment in pursuance of the direction of Hon'ble ITAT, the Assessing Officer referred to and relied on the report of the DVO (dated 30.03.2015), according to which the fair market value (FMV) of the property along with built-up area as on 01.04.1981 was Rs.11,59,755/-. The DVO gave weightage of Rs.5/- per sq. yard and added 15% towards locational advantage to the FMV reported by the SRO. The assessee was



afforded an opportunity to file any objection, but no objection was filed by him. The Assessing Officer recomputed the LTCG at Rs.8,39,71,595/-. Aggrieved against such determination of the FMV of the property as on 01.04.1981, by the Assessing Officer in the fresh assessment, the assessee has preferred the present appeal.

03.0 In appeal, the assessee has objected that the DVO had not looked into the Registered Valuer's report and had not stated what enquiries were conducted by him to ascertain the inherent quality of the property, viz., size, location, road frontage, and other comparable property in the locality. According to the assessee, sufficient opportunity was not provided by the Assessing Officer to make his submissions and that the Assessing Officer instead of doing any enquiry himself, had simply adopted the valuation made by the DVO. Thus, according to the assessee, the value as per the Registered Valuer's report should be adopted as the Assessing Officer had not brought anything on record to rebut the said value. It was also submitted that in the original assessment, the Assessing Officer had taken the built-up area of the property to be 2946 sq.ft. and had only changed the building value by adopting the rate of Rs.50/- per sq.ft. for the same. The built-up area of the property at 2946 sq.ft. was never in dispute. The CIT(A) had given relief by changing the rate to Rs.100/- per sq.ft. Therefore, point of dispute before the ITAT was limited to the valuation of the building i.e. rate per sq.ft. to be taken and the issue of the built up area was never in consideration. Thus, the action of the Assessing Officer in reducing the built-up area to 1000 sq.ft. as against 2946 sq.ft. on the basis of DVO's report was not within her purview as the ITAT had not gone into that issue at all while setting aside the matter to the file of the Assessing Officer.

Decision:

04.0 The facts of the case and the submissions of the appellant have been considered carefully.

(i) Built up Area: The challenge by the assessee to the adoption of the built-up area at 1000 sq.ft. instead of 2946 sq.ft. adopted in the original assessment has merits and bears consideration. The extent of the built-up area was not



contested by either the Revenue or the assessee. The DVO adopted the built-up area of 1000 sq.ft. as per the Gift Deed, while the Assessing Officer in the reference made to the DVO had taken the built-up area to be 2946 sq.ft. This was in accordance with Annexure -1A of the Sale Deed which was considered by her in the original assessment order. The building was not in existence at the time of inspection and the DVO without assigning any reason, had merely taken the plinth area of the building as per the Gift settlement deed. The Gift settlement had taken place on 28.7.2004, and the property was sold much later, on 02.3.2009. Even otherwise, the action of the Assessing Officer in the fresh assessment proceeding is limited to the directions of the ITAT and he cannot be allowed to take up issues which were not there before the ITAT. He is therefore, directed to take the built-up area at 2946 sq.ft. only.

(ii) FMV of the Property: The Registered Valuer's report, as submitted by the assessee, is available on record. But, as observed by the Hon'ble ITAT, it may not be free from bias. The report of the DVO is also available on record. It also suffers from subjectivity. There are no comparative sale instances of similar property in the same locality for the year 1981. Even though the DVO's report mentions of similar sale instances supplied by the SRO, Banjara Hills, Hyderabad but no such instances have been given by him. The FMV, as per the assessee, should be @ Rs.1,600/- per sq. yard while that, as per the Assessing Officer, should be @ Rs.25/- per sq. yard. Determination of the market value of a property is always a subjective exercise since it may be contingent on multiple variables. The problem gets accentuated when the point of time for which the FMV has to be estimated goes back by more than 30 years and considerable change in the urban landscape has taken place in the meantime. It has been argued by the assessee that the area in which the property is situated was the more advantageous location of the city around 1981 as it was very near from Taj Banjara, the 2 star hotel that existed even before 1981. The argument is appealing though it is difficult to say with precision how the same should be factored in for determining the FMV of the property in the year 1981. Considering that the technical reports of the registered valuer (relied on by the assessee) and of the DVO (relied on by the Assessing Officer) are not the best guides in the matter, guidance from



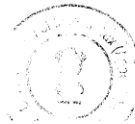
judicial precedence in the matter is necessary. This exercise was done by my learned predecessor while deciding the assessee's appeal in the first round. It would be illustrative to reproduce his decision in the matter which he had arrived at after considering the facts and circumstances of the case as well as the available judicial pronouncements. The relevant part reads as below:

"6. I have gone through the facts of the case and the submissions of the appellant. It is not in dispute that in the instant case, the appellant had submitted a report of the approved Registered valuer before the Assessing Officer to support the rate of Rs. 1600/- per sq. yard adopted by him in computing the Long Term capital gains. However, the Assessing Officer considered the said valuation report as a self serving document and an afterthought, observing that the Registered valuer therein had relied upon local enquiries and his own opinion only. Besides, the Assessing Officer found that none of the orders relied upon by the appellant contained any estimate of the Fair Market Value of land and building in the vicinity of the appellant's property as on 1.4.1981. Accordingly, the Assessing Officer adopted the SRO values for land and constructed area as FMV as on 1.4.1981. The Assessing Officer opined that in the light of the decisions of the Hon'ble Visakhapatnam Bench of the ITAT in the case of Siva Parvathi Vs. ITO (supra) and that of the Hon'ble Andhra Pradesh High Court in the case of Rajalakshmi Trading Co. Vs. CIT (Supra), the Fair Market Value as certified by the Joint Sub Registrar / District Registrar only should be adopted in the absence of any comparable instances.

6.1 As regards the decision of the Hon'ble Constitutional High Court and in the case of Rajalakshmi Trading Co. Vs. CIT (supra), it is seen that the said case involved the issue of dissolution of a registered firm in the year 1981. One of the partners of the firm had taken over the assets of the firm at the book value of Rs. 2,17,555/-. However, applying the provisions of sec. 45(4) of the Act, the Assessing Officer held that the Fair Market Value of the property so transferred was Rs. 150/- as determined by the District Registrar, Ranga Reddy District. Accordingly, the difference was taxed in the hands of the assessee firm as 'short term capital gains'. Referring to the decision of the Hon'ble Apex court in the case of ALA Firm Vs. CIT (18 ITR 155), the Hon'ble High Court took note of their observation that "..... There can be no manner of doubt that, in taking accounts for the purpose of dissolution, the firm and the partners, being commercial men, would value the assets only on a real basis and not at cost or at their other value appearing in the books. The real rights of the partners cannot be mutually adjusted on any other basis". It was, therefore, held by the Hon'ble High Court that the value of the capital asset, on transfer, as a result of the dissolution of the firm, should be the Fair Market Value and not the written down value or any other value. Since in the said case the Fair Market Value, as determined by the District Registrar, was available, whereas the assessee had taken the book value of the asset into consideration, looking to the provisions of sec. 45(4), which speak of "the Fair Market value of the asset on the date of such transfer", the Hon'ble Court held that the value as per the District Registrar should have been taken for the purpose of determining the 'short term capital gains' in the hands of the assessee firm.

6.1.1 On going through the above decision, it is clear that the Hon'ble High Court of Andhra Pradesh therein have expressed the above view with respect to the specific facts of the said case. At the same time, there is no such specific pronouncement therein, as would amount to the conclusion that the SRO values only should be considered as the Fair Market Value of the property under all circumstances.

6.2 In as much as the reliance of the Assessing Officer on the decision of the Hon'ble ITAT, Visakhapatnam in the case of M. Siva Parvathi&ors. Vs. ITO (2011 (7) ITR (Trib) 468) is concerned, it is seen that in the said case the Joint Sub Registrar had furnished specific information to the effect that as per the guidelines the market value of the property was Rs. 150/- per sq. yard w.e.f. August 15, 1982 to April 30, 1987. On the other hand, despite contending that there were certain advantages attached to the location of the property, the assessee could not furnish any other evidence to support the value of Rs. 600/- per sq. yard shown by it, so as to establish that the impugned property could



have fetched more value than the cost certified by the Joint Sub Registrar. In view of these facts, the Hon'ble ITAT held that there was no reason to interfere with the decision of the CIT(A) on this issue.

6.2.1 From the above facts, therefore, it is clear that in the above referred case, no evidence at all was furnished to establish the contention that the impugned property could have fetched more value than the cost certified by the Joint Sub Registrar on account of the advantages claimed as attached to the location. Obviously, the locational advantages and the higher rates could have been justified only by any specific instance of sale around the same time in the vicinity. However, the assessee did not cite even a single instance of the Fair Market Value of any property within the jurisdiction of the concerned Registrar before the CIT(A), let alone any instance in the neighbourhood of the property itself. Since there was no evidence submitted before the CIT(A) to establish the claim FMV of Rs. 600/- per sq. yard, the Hon'ble ITAT found no reason to interfere with the decision of the CIT(A), which was based on the certificate from the Registrar, which gave specific information regarding the rate of Rs. 150/- per sq. yard. It can therefore be seen that even this decision is based on the facts of that case itself and does not lay down any proposition that the SRO value as on 1.4.1981 should be considered as the Fair Market Value of any property in all cases.

6.3 On the other hand, it is seen that in a number of judicial pronouncements, the guideline value or Basic valuation has been repeatedly found to be a poor substitute to the Fair Market Value, as it lays down only guidelines, fixing the minimum value and does not even bind the Registering Authority. This position emerges from the decisions of the Hon'ble Supreme Court in the case of *Jaujaee Nagamatham Vs. RDO, Adilabad, A.P.* (1994)4 SCC 595, *Prakashwati Vs. Chief Controlling Revenue Authority, U.P.* (1996)4 SCC 657 and *State of Punjab Vs. Mohabir Singh* (1996)1 SCC 609.

6.4 In the background of the aforesaid judicial pronouncements, the Hon'ble Jurisdictional ITAT, in the case of *Smt. G. Vijaya & Others* (supra), have categorically held that the guideline value of Sub Registrar of Registration Department of State Government cannot be adopted as a Fair Market Value as on 1.4.1981. They have taken this view on the basis of the decision of the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of *Sagar Cements Ltd. Vs. State of A P* (supra), as also the decision of the Hon'ble Supreme Court itself in the case of *Ponnavolu Sashidhar Vs. Sub Registrar Hayathnagar* (supra). It has also been reiterated that the Sub Registrar's value cannot be adopted, unless it is scientifically arrived at. Besides, they have also referred to the decision of the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of *MRO and LAO Vs. Sri Sri JagannadhaSwamyvari Temple, Palakonda* (Appeal No. 1564 of 1988 dated. 26.3.1992), holding that "when the rates in the Basic Value Register have been fixed area-wise, without any scientific date (sic), the values mentioned in the Basic Value Register cannot be treated as comparable values of market value at the relevant time."

6.5 Further, it is seen that in view of the available judicial opinion on the issue, in the case of *Tulasimani Anmal Vs. CIT 8Amr.* (158 CTR 5) also, it was held by the Hon'ble Madras Bench of ITAT that the Registration Department value has evidentiary value, but cannot be regarded as conclusive evidence. A similar view has been expressed by the Hon'ble Jurisdictional ITAT Hyderabad in the case of *K. Pratap Reddy* (supra) and in *Ashven Datta Vs. ITO* (supra).

6.5.1 As regards the case of *K. Pratap Reddy* (supra), it is seen that the Hon'ble ITAT, after considering the order in the case of *G. Vijaya & ors.* (supra), opined that the value of the SRO is only a guideline and is not the clinching evidence regarding the Fair Market Value of the Property. They noted that in such a situation, the value has been arrived at on the basis of the comparative cases. Noting that the CIT(A) had considered both the Sub Registrar certificate, as well as the cases relied upon by the assessee, and had arrived at the Fair Market Value of Rs. 1200/- per sq. yard as on 1.4.1981, they upheld the Fair Market Value to be Rs. 1200/- per Sq. yard.

6.5.2 Likewise, it can be seen that in the case of *Ashven Datta Vs. ITO* (supra), the appellant had adopted Fair Market Value as on 1.4.1981 at Rs. 750/- per sq. yard on the basis of the Valuation Report of the Registered Valuer. However, the Assessing Officer adopted the rate of Rs. 8/- per sq. yard only in view of the guideline value. Considering the definition of "Fair Market Value" under sec. 2(22B), the Hon'ble ITAT noted that in view



of the same, it needs to be found out as to what would the capital asset fetch when the transaction takes place between a willing seller and a willing purchaser in a hypothetical situation. They noted that an identical issue had been considered in the case of G. Vijay & Ors. (supra), wherein after considering the judgment of the Hon'ble Jurisdictional High Court and the finding that the guideline value has been fixed in the year 1976 itself, the Tribunal had found that such guideline value was fixed without any scientific data and therefore could not be treated as a comparable value of a market value as on 1.4.1981. They also noted that the guideline value fixed in the year 1976 was not revised till 1995 nor the guideline value / Basic Value Register had been prepared scientifically. They also noted that the decision in the case of G. Vijay & Ors. (supra) was again followed in the decision in the case of ACIT Vs. Sri Narsimha Rao (HUF) in ITA No. 1240/Hyd/2007 dtd.26.9.2008. Accordingly, the Hon'ble ITAT categorically observed that "... the lower authorities are not justified in placing reliance on the guideline value fixed by the Government in the year 1976"

6.5.2.1 Having considered the judicial precedents discussed above, the Hon'ble ITAT in their order in the case of Ashven Datta Vs. ITO (supra) have further observed that for the purpose of estimating such 'agreed price / Fair Market Value', several factors, such as the necessity/ urgency of the vendor, location of the property, infrastructure facility available in the locality, potential for future development, access to property etc., have to be taken into consideration. Noting that the property involved in the said case was located at Kukatpally, Nr. Hitech City in Hyderabad, and also considering its location and advantages, as described in the Valuation Report, they concluded that it was an important piece of land in that vicinity. They noted that though the guideline value in the year 2006 was Rs. 3700/- per sq. yard, the Valuation Officer, after considering all the factors had estimated the value as on 1.4.1981 at Rs. 750/- per sq. yard, which they found very reasonable. They also noted that in the absence of any comparative sale instances in the locality, it would be safer on the part of the lower authorities to estimate the Fair Market Value as on 1.4.1981 on the basis of the Valuation Report. Accordingly, they held that the property would have definitely fetched Rs 750/- per sq. yard if it was sold on 1.4.1981. Accordingly, it was concluded that application of the Fair Market Value of Rs. 8/- per sq. yard as per SRO Register was not justified.

6.6 From the above discussed orders of the Hon'ble Jurisdictional ITAT, it is clear that in view of the fact that the guideline value had been fixed in the year 1976 and was not revised till 1995, it would not be justified to place reliance thereon. Following the said decision of the Hon'ble ITAT, therefore, it can be said that in the case of the present appellant also, the Assessing Officer could not have adopted the Fair Market Value @ Rs. 20/- per sq. yard for land and Rs.50/- per sq. ft. for the RCC structure.

6.7 As regards the observation of the Assessing Officer that the appellant could not cite any comparable instance, it is clear that even the Assessing Officer has not cited any instance of sale / purchase at the rate shown in the Basic Value Register in the vicinity of the appellant's property. Rather, he has straight away applied the rates as per the Basic Value Register, which as per the Hon'ble ITAT cannot be taken as the basis for determining the Fair Market Value.

6.8 As against this, the appellant had supported its computation of Long Term capital gains by way of a report from the registered valuer, showing the rate of Rs. 1600/- per sq. yard. Even though the Registered valuer had not cited any comparable instance in the said valuation report, he had given the said valuation on the basis of local enquiry and after forming an opinion about the value of the property of the appellant. While the valuation so done may not be accepted fully in view of the absence of any direct evidence and on the ground of subjectivity, it cannot be denied that the property of the present appellant was located at Road No. 5, Banjara Hills, Hyderabad, which is indeed a much more prominent and potential location, as against the property involved in the case of Ashven Datta Vs. ITO (supra), wherein the value of a property in far off Kukatpally, as on 1.4.1981, has been held to be Rs. 750/- per sq. yard. Similarly, in the case of K. Pratap Reddy (supra) the Hon'ble Jurisdictional ITAT have approved of the value of land located at S D Road, Secunderabad to be Rs. 1200/- per sq. yard as on 1.4.1981. Likewise, in the case of G.Vijay & ors. (supra), the Fair Market Value of the property in Abids area was upheld at Rs. 1380/- per sq. yard. Looking into these instances and considering the



location of the property sold by the appellant being at Banjara Hills, its potential and future prospects, I am of the view it would be fair and reasonable to estimate the fair market value of the impugned land at Rs. 900/- per sq. yard.

6.9 So far as the valuation of the built up area is concerned, it is seen that the Assessing Officer valued the built up area @ Rs. 50/- per sq. ft. in view of the SRO value. While the value so adopted by the Assessing Officer here on the basis of SRO's register cannot be taken as the Fair Market value in view of the decisions discussed above, it is seen that in the case of K. Pratap Reddy, the Hon'ble Jurisdictional ITAT have upheld the value of built up area as on 1.4.1981 to be Rs. 150/- per sq. ft. Obviously, the cost of construction would not get much affected by the location of the property. Therefore, it is reasonable to conclude that there would not be much qualitative difference in the construction aspect also. Accordingly, I am of the view that the Fair Market Value of the built up area should be reasonably accepted at Rs. 100/- per sq. ft., as taken by the Registered valuer.

6.10 In view of the above discussions, the Assessing Officer is directed to recompute the Long Term Capital gains by adopting the Fair Market Value of land at Rs.900/- per sq. yard and that of the built up area at Rs. 100/- per sq. ft., and modify the computation of income of the appellant for the year accordingly"....

04.1 I am in agreement with the decision of my learned predecessor. Considering the totality of facts and circumstances of the case discussed above, it is held that:

- I. The FMV of the property as on 01.04.1981 cannot be determined solely on the basis of the technical reports of the registered valuer or of the DVO.
- II. The FMV of Rs.900/- per sq. yard and Rs.100/- per sq.ft. for 2946 sq.ft. of built-up area determined by my learned predecessor in his order dated 29.6.2012 is the appropriate valuation of the property as on 01.04.1981.

Accordingly, the Assessing Officer is directed to re-compute the long term capital gains.

3. We have heard rival submissions against and in support of the impugned FMV of the assessee capital asset as on 1.4.1981. The assessee has filed a detailed paper book running into 120 pages comprising of his written submissions before the CIT(Appeals), Tribunal's first round order dt.31.7.2013 (supra), tribunal yet another order

dt.26.9.2008 in the case of ACIT Vs. Sri Narsimha Rao (HUF) and Others (ITA No.1240/Hyd/2007) estimating the FMV as much more than SRO price keeping in mind the clinching fact that the same for rewaived estimation unchanged from 1976 to 1995, similar other orders in the case of Shri G.Vijay Vs. DCIT & Others dt.29.4.2005 (ITA No.276/Hyd/2003) and Shri Ashven Datla Vs. ITO in ITA No.107/Hyd/2010 Dt.29.10.2010; written submissions made before the CIT(Appeals), registered valuer's report dt.29.04.2009, DVO's report dt.30.3.2015, CIT(Appeals) first round lower appellate order dt.29.06.2012, the Assessing Officer's former estimation dt.19.12.2011, gift settlement dt.28.7.2004 and sale deed dt.2.3.2009 forming subject matter of the impugned case; respectively, stands perused.

4. Learned authorized representative vehemently contended during the course of hearing that the CIT(Appeals) has erred in law and on facts in determining the FMV of the capital asset(s) as Rs.900 per sq. yard only

as on 1.4.1981 despite the fact that the same was situated in Hyderabad city's very posh Banjara Hills area. And also that the assessee has proved by way of producing sale instances of such affluent locality(ies) that the impugned capital asset(s) FMV deserves to be taken as at least Rs.1500 per sq. yard. We find no merit in the assessee's argument mainly going by his registered valuer report dt.29.4.2009 wherein he has not even tried to ascertain as to whether the corresponding locality has seen any sale deed in the relevant time span or not. It has further come on record that the CIT(Appeals) has precisely considered all the corroborating facts and circumstances whilst adopting the impugned FMV @ Rs.900 as against the Assessing Officer's action taking it as Rs.25 only. We thus see no reason to interfere with the CIT(Appeals) detailed discussion which has already granted much more than the appropriate relief to the taxpayer; albeit prima facie.

5. Coming to tribunal's various decisions (supra), learned counsel submitted that hon'ble jurisdictional high

court has also affirmed the same. We find no substance in the assessee's instant latter argument as well since such an estimation does not form a valid precedent keeping in mind since not even pertaining to the very locality. We further quote hon'ble jurisdictional high court full bench' decision in CIT Vs. B. R. Constructions (1993) 202 ITR 222 (AP) (FB) defining the contours of a judicial precedent to be applicable only if it discusses all the relevant facts involved as identical footing followed by the relevant statutory provisions. We accordingly reject the assessee's instant latter argument as well.

6. This assessee's appeal is dismissed.

Order pronounced in the open court on 31st May,2021.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(S.S. GODARA)
Judicial Member

Hyderabad, Dt.31.05.2021.

* Reddy gp

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5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.